



USDA Foreign Agricultural Service

GAIN Report

Global Agriculture Information Network

Template Version 2.09

Voluntary Report - public distribution

Date: 2/6/2009

GAIN Report Number: GM9005

Germany

Biotechnology

Separation Distance to Environmentally Sensitive Areas

2009

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Report Highlights:

Several German states have implemented at least 800-meter separation requirements between biotech corn fields and recognized "environmentally sensitive areas". Farmers who want to plant biotech corn within this new protection area are requested to provide an environment impact report assuring that no endangered species will be at risk. These state-level requirements are connected to the German Nature Protection Law and not the Genetech law. Farmers have taken the requirement to court. No similar restrictions exist for other plant protection technologies. These state-level requirements are connected to the German Nature Protection Law and not the Genetech Law. Farmers have filed taken the requirement to court. No similar restrictions exist for other plant protection technologies.

Includes PSD Changes: No
Includes Trade Matrix: No
Annual Report
Berlin [GM1]
[GM]

Biotech corn cultivated near environmentally sensitive areas

Summary: In several German states, farmers interested in planting MON810 corn varieties are facing new opposition from regional environmental protection agencies. Environmentalists particularly in States of Brandenburg and Sachsen claim that the cultivation of biotech corn varieties may damage endangered species in protected environmentally sensitive areas. As a result, they have been successful in establishing a new requirement for a **800- meter separation zone** between **biotech corn fields** **neighboring “environmentally sensitive areas”**. The authorities have based this new separation requirement on the regulations of the German nature protection law. It is possible that other German Laender (State) authorities may follow the Brandenburg/Sachsen example.

Background: Over the past two years, German environmentalists have demanded that state authorities implement separation distances between biotech corn fields and “environmentally sensitive areas”, such as Flora-Fauna-Habitats (FFH). These groups have been successful in Brandenburg, which implemented a minimum 800-meter distance, and in Sachsen, which implemented a 1000-meter distance.

Brandenburg

Specifically, the Brandenburg Ministry of Agriculture and Environment (a Social Democrats run office) argues that the EU biotech approval does not generally supersede national or state nature protection laws. These are two separate unconnected sets of law. The Brandenburg Ministry of Agriculture and Environment contends that the established separation distance to allow coexistence of different farming systems (150 and 300 meters in Germany) is not providing sufficient protection for ecologically sensitive areas. The local nature protection offices in the state are responsible for managing this requirement directly with farmers. Farmers have been sent letters indicating that if they want to plant biotech corn closer than 800 meters to an ‘environmentally sensitive area, they must provide an environment impact report assuring that no endangered species will be at risk. In the letter to individual farmers, the regional nature protection office in Brandenburg indicates that the Bt toxin is a biocide active agent which is approved for use as an insecticide. It goes on to say that since tests have proven that corn pollen containing the Bt toxin can travel longer distances, it is not guaranteed that the cultivation of Bt corn within the protection zone of 800 meters is not harmful to the neighboring ecologically sensitive system.

The criteria and contents of the required impact report have not yet been determined by the Brandenburg authorities. There is no indication when it will be made available and how any information provided will be evaluated. Since farmers are not in the position to provide the required scientific impact report cultivation of Bt corn within the 800 meter zone is not possible.

Farmers in Brandenburg have taken legal action against the restrictive 800 meter rule. A decision about the distance requirement is expected for late spring or early summer 2009, too late for 2009 corn planting. The farmers receive support from biotech companies active in Germany.

Sachsen

The State of Sachsen implemented a protection zone of 1000 meters but it has different requirements from Brandenburg. Sachsen authorities will look at each farmer’s intention to plant Bt corn within the 1000-meter zone on a case-by-case scenario. The Sachsen environment protection offices first will do their own pre-impact check to determine whether

a specific endangered species is resident in the environmentally sensitive area. If no endangered species are identified, the farmer may be allowed to plant Bt corn in the direct neighborhood of the environmentally sensitive area. If an endangered species is identified, farmers will be required to submit an impact report.

Different Treatment between Bt Corn, Plant Protection Products, and Organic Bt Pesticides

These German states do not have specific rules covering the use of other plant protection chemicals within the 800-meter protection zone. However, there are case-by-case limitations established by the EU depending on the active chemical substance and the topography of the agricultural cropland and the neighboring environment.

Special distance requirements for Bt insecticides used by organic farmers within the separation zone of 800 or 1,000 meters do not exist. Bt insecticides are allowed to be sprayed in direct neighborhood to environmentally sensitive areas.

The EU risk assessment for the approval of the biotech event considers potential risks to sensitive areas. However, this does not seem to satisfy the Brandenburg and Sachsen authorities. Because these environmental regulations are developed and implemented at the state level, the German Federal Government has little control over their development or consistency with EU regulation.